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MISCELLANY.

Attacks on Judges.—Not often, fortunately, is an English judge assaulted whilst in the performance of his judicial duties. Mr. Justice Ridley, who is to be congratulated, not only upon the comparatively slight nature of the injuries he suffered at the hands of the violent prisoner who flung a stool from the dock in the Birmingham Assize Court, but also upon the calmness and good judgment with which he treated the incident, is, indeed, the only High Court judge of modern times who has encountered so disturbing an experience. The only other instances of violence to the Bench have occurred in minor courts. Judge Parry, whilst sitting in the Manchester County Court some thirteen years ago, was fired upon by an enraged bailiff whose certificate he had withdrawn; and Mr. Tindal-Atkinson, K. C., whilst sitting as Recorder of Leeds some six years ago, had a large bottle hurled at his head by an occupant of the dock. The famous assault on Vice-Chancellor Malins, by an American named Cosgrave, may be excluded from this list of dangerous attacks, not because the missile was merely an egg, but because it was thrown at the learned judge as he was leaving the Bench. All the other modern instances of attacks on members of the Bench have occurred whilst the judges were not engaged in the performance of their judicial duties. Sir George Jessel was at the entrance to the Rolls Court when Dodwell made his abortive attempt to shoot him in 1878; Judge Bristowe was fired upon by a disappointed suitor at the Nottingham railway station in 1889; and Mr. Justice Ridley and Mr. Jutice Bucknill—it is strange that the former judge should have been assailed twice in one year—had concluded the hearing of the Hull election petition in June last when two or three excited partisans threw some lumps of coal at them. It is worthy of note that, though the prisoner who flung the stool across the court at Birmingham was guilty of the grossest kind of contempt of court, Mr. Justice Ridley did not punish him specifically for the offense, though he may, of course, have taken it into account in passing a sentence of five years' penal servitude for the crime of which he was convicted. Much harsher in olden times was the treatment of prisoners who were guilty of attacking the judges, as these two extracts from Mr. Oswald's book on Contempt of Court will serve to show:

"At Salisbury Summer Assizes, 1631, before Richardson, C. J., a prisoner, after his condemnation for felony, threw a brickbat at the Chief Justice, which narrowly missed; for this an indictment was immediately drawn by him against the prisoner, and his right hand was cut off and fixed to the gibbet, upon which he was immediately hanged in the presence of the Court (2 Dyer, 188b, notes)."

"One James Williamson, a felon convicted at the Sessions held at Chester in October, 9 Car. 1, threw a stone at the judges on the

Bench, for which he was at once indicted, convicted, and had judgment to have his right hand cut off—which judgment was executed accordingly in open Court; and the hand was fixed over the entrance gate of Chester Castle, where it remained some time (Chester Docket Book (1603-52), 60, 166)."

Perhaps the most surprising thing about the incident at Birmingham is that a loose stool should have been in the dock. The barbarous theory that a prisoner ought to stand throughout his trial is gradually disappearing. If the seating accommodation for prisoners were made permanent in every court, such an incident could never be repeated.—London Law Journal, Dec. 16, 1911.

Practice Act in Virginia.—Before proceeding further, I desire to thank your periodical and to felicitate the lawyers and the general public on account of the "open forum" long maintained by you for the discussion of high public concerns. And surely no other question involves, to a greater extent, the waste of time and money, both private and public, or the rights of more persons and classes of persons, than the question of the simplification of the pleading and the procedure in our courts of law—a question that we hope is about to be decided in Virginia, and decided aright.

The writer has followed, with interest, the development of this subject, through the "various stages of pleading," in the REGISTER. And in the writer's judgment, the pleadings now disclose two issues, between which we should observe a proper distinction. The one question is, whether we should adopt a Practice Act in Virginia; and the other, whether, even if a Practice Act is adopted, Common-Law Pleading should be taught in our schools still.

The writer thinks that, as to this question of Common-Law Pleading, we can find the solution by a method that we so often employ in other departments of life, and with which lawyers, especially, are familiar, that is, by way of compromise.

Now, Professor Graves' article in the January REGISTER treats only of the question as to whether Common-Law Pleading should be taught in our law schools still. And we think that he "made out" his case; the only question remaining, in that connection, being as to *how much* time should be devoted to this branch of the science.

Upon the other hand, "Monsieur le Duc (Duke) de Code" is in pari delicto—which being interpreted meaneth, "in equal delight,"—for he, too, in the humble judgment of this writer (supported by the long experience of England and other jurisdictions), has proved his case. And he has done so both by advancing the urgency for the change which calls out from the existing "state of facts," and also by precedents which by reason of their dignity, cannot be disregarded, and the meaning and effect of which cannot be gainsaid.

On the one hand, we conceive several reasons why Common-Law Pleading should continue to be taught in our law schools, even after we have adopted our Practice Act. One reason is that a thorough grasp of the processes—and their purposes—involved in C. L. Pleading, is to the mind as logic, and is one more aid in giving to the student's mind that power of thorough and close thinking by the processes of analysis and elimination that is so essential to the mentally well-equipped lawyer. But the principal reason, as we conceive, is that such a course gives the law student a historical and philosophical perspective and a fuller comprehension of that branch of the great science that he is studying.

Let us, then, still teach C. L. Pleading in the schools for its historical and, if you please, theoretical value.

I have, throughout this article—as I shall ever do—spoken of our venerable and venerated friend, C. L. Pleading, only with the greatest and most affectionate regard.

(b) However, let us recognize that the old gentleman has now outgrown his practical usefulness, and that his reason, which once explained things he did or tried to do, no longer suffices. In fact, let us recognize that when we come to commit his venerated and feeble remains to their last resting place, they are the remains of one who, while he has been venerated so long, really departed this life sometime since, and that we are but witnessing a posthumous (?) demise.

The work of repairing a Practice Act, and having it adopted, is a work for the lawyers of the State. And not only is this so, but it is a work that the lawyers owe—not to the profession alone, though the profession will undoubtedly be greatly benefitted thereby, but especially to the present age—to the public generally, who know that something is wrong but know not how to right it.

I know that Professor Graves' highest aim is, "the present age to serve." I hope, also, that although he very properly insists that C. L. Pleading be taught in our law schools, even when we adopt a Practice Act, he will also lend his valuable assistance and influence toward the preparation and adoption of a good Practice Act in Virginia. And it is to be hoped that all teachers in our law schools will actively exert their influence in furtherance of this work.

It is well known that the author of the article in the January REGISTER about teaching C. L. Pleading, is a sedulous worker or "digger," and so we call upon this experienced legal Graves-digger, as well as all others, to lend their aid to prepare a fitting resting place for the object of our sketch, C. L. Pleading.

And then, while remembering to speak often of his quondam good qualities, and to acquaint the students with his honorable ancestry, let us place the following simple legend upon his monument:

Hic
jacet
the "terse and subtle"
remains of C. L. Pleading:
He died of good old age,
"absque hoc" that he
died of overheeding.
To his posthumous demise
no "plea for venue" or
"special demurrer" is filed;
For the Common Law Court
and the "Chancery side"
are at length reconciled!
C. L. Pleading
Natus, (Cir.) 1000 A. D. Mortuus, 1912 A. D.
This monument affectionately erected,
with a "prayer for judgment," by the Bar of Virginia.
He now enjoys a soil and a
"liberum tenementum" all his own!
"Requiescat in pace" where no "color,"
no "precludi's," no "de injuria's" are known.

W. B. B.

Form of Deed of Trust for Keeping Estate Together as Long as Possible.—Form used for deed of trust where several brothers and sisters united to contribute the fund and which was intended to keep the enjoyment of the income for the benefit of the several founders for life and for the benefit of the founders' families, if any, so long as consistent with law, thereby deferring the distribution of the principal to the latest period and preserving it, the principal, for the benefit of the issue **per stirpes** of the founders having issue living at the time of the period of distribution. The form is suitable for a father who wishes by deed or will to make a trust for his children and grandchildren and keep the trust estate together for as long a time as possible and always within the family. A kind of "co-arcted inheritance" as Mr. John B. Minor used to say.

"* * * In Trust, pending the distribution as hereinafter provided of the principal of the said trust fund, to pay the net annual income therefrom, at such periods annually as the said party of the second part may designate, after deducting all necessary charges and expenses and proper compensation for the care and protection of said trust fund, to and among the parties of the first part for and during their respective lives in equal shares as tenants in common; and upon the death of any of said parties of the first part leaving issue,

then upon the further trust, for and during the residue of the period aforesaid, to pay the share of said net annual income, theretofore enjoyed by the one so dying, equally per stirpes among his or her issue for the time being, so long as there shall be during the residue of said period any of his or her issue living to receive the same; and upon the death of any party of the first part without issue living at his or her death, or if survived by issue, all of his or her issue shall afterwards become extinct before the expiration of the period aforesaid, then the said party of the second part shall stand possessed of the share of the net annual income of the party of the first part so dying without issue, or of his or her issue afterwards so becoming extinct, as the case may be, with all accretions, upon the same trusts and limitations that the residue of the net annual income from said trust fund shall then be held upon.

"And when the longest liver of said parties of the first part shall have died and the youngest of all of their children, who shall survive until then, shall have attained the age of twenty-one years, said trust as to income shall forthwith cease and come to an end and the principal of said trust fund shall immediately vest in and be by said party of the second part paid to and among all the issue then living of said parties of the first part in equal shares per stirpes."—An extract from the record in a chancery case in the Chancery Court of the City of Richmond, contributed by a subscriber.